

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

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|------------------------------------|---|----------------------|
| BEST WESTERN INTERNATIONAL, INC., |) | |
| an Arizona non-profit corporation, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| vs. |) | |
| |) | |
| HORIZON HOSPITALITY, L.L.C., an |) | |
| Alabama limited liability company; |) | |
| and VIJAY PATEL, an individual, |) | No. 2:08-cv-1932-HRH |
| |) | |
| Defendants. |) | |
| _____ |) | |

O R D E R

Case Status

Plaintiff has moved for the entry of default judgment against the defendants. The court needs clarification of some matters suggested by the moving papers before it can enter judgment.

First, the court has been provided with monthly statements of account which reflect and plaintiff seeks pre-judgment interest "at the rate of 1.5% per month from December 1, 2009."¹ (The court infers that the latter date should be 2008.) With respect to this matter, plaintiff will please provide the following information:

- (1) The legal basis (both contractual and statutory) for this rate of interest.
- (2) A ledger-type accounting, showing the additions to principal and interest computation.

¹Motion for Default Judgment at 2, Docket No. 20.

- (3) It appears that plaintiff is compounding interest, which makes the effective rate much higher than 18% per annum. If interest is being compounded, provide contract and statutory authority for doing so.
- (4) An interest computation to near date, plus a per diem amount which can be applied thereafter.

Second, plaintiff seeks liquidated damages pursuant to paragraph 24 of the membership agreement. The court has attempted to replicate the computation set forth in paragraphs 11 and 12 of Ms. Pollack's affidavit.² The court's attempt at this computation has resulted in a final amount considerably less than suggested by the affidavit. With respect to the foregoing, plaintiff will please provide:

- (1) A copy of paragraph 24 of the membership agreement.
- (2) A detailed recalculation of plaintiff's request for liquidated damages.

Third, counsel's billing statement in support of a request for attorney fees includes charges between May 14, 2008, and October 9, 2008, which appear to relate to proceedings other than those commenced in this court by the filing of a complaint on October 21, 2008. The court infers that plaintiff commenced an action that may or may not have been against the same defendants in May of 2008 and voluntarily dismissed it in October 2008. It is unclear to the court why the defendants in connection with this case should be

²Affidavit in Support of Application for Default Judgment at 3, Docket No. 21.

saddled with the expense of an aborted earlier proceeding.
Plaintiff will please explain.

DATED at Anchorage, Alaska, this 4th day of March, 2009.

/s/ H. Russel Holland
United States District Judge